



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIN Aug-07

MIRICK, O'CONNELL, DEMALLIE & LOUGE, LLP
1700 WEST PARK DRIVE
WESTBOROUGH MA 01581

COPY MAILED

AUG 17 2007

OFFICE OF PETITIONS

In re Application of	:
Sharp et al.	:
Application Number: 09/779379	:
Filing Date: 02/07/2001	:
Attorney Docket Number:	:
A0744/7003	:

DECISION ON PETITION

This is a decision on the "RENEWED PETITION UNDER 37 CFR 1.181, PETITION FOR REVIVAL OF AN APPLICATION UNDER 37 CFR 1.137(a) AND PETITION FOR REVIVAL OF APPLICATION UNDER 37 CFR 1.137(b)," filed on 19 June, 2007.

The petition to withdraw the holding of abandonment is **DISMISSED**.

The petition under 37 CFR 1.137(a) is **GRANTED**.

The petition under 37 CFR 1.137(b) is **DISMISSED AS MOOT**.

A review of the record reveals the following:

1. On 7 February, 2001, the application was filed.
2. On 15 April, 2005, a Notice of Allowance and Fee(s) Due was mailed, setting a three (3) month statutory period for reply.
3. On 22 April, 2005, a final Office action was mailed.
4. On 20 July, 2005, a response to the final Office action was filed.

5. On 23 December, 2005, a corrected Notice of Allowance was mailed, stating the final Office action was mistaken issued by another examiner who misprinted the serial number on his action for another case, that the final action is withdrawn, and that the application is allowed for the reasons previously set forth.

6. On 21 March, 2006, the issue and publication fees were filed.

7. On 13 July, 2006, a corrected Notice of Allowance and Fee(s) Due was mailed, setting a three (3) month statutory period.

8. On 5 December, 2006, a Notice of Abandonment was mailed.

9. On 18 January, 2007, a petition to withdraw the holding of abandonment was filed.

10. On 24 April, 2007, a decision dismissing the petition was mailed.

11. On 19 June, 2007, the present petition was filed.

Upon further review, it is noted that the application became abandoned for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 15 April, 2005. As the fees paid on 21 March, 2006, were submitted over three (3) months after the mailing of Notice, the application became abandoned as a matter of law at midnight on 15 July, 2005. Furthermore, petitioners have not shown that the issue and publication fees were timely paid in response to the Notice mailed on 15 April, 2005.

Accordingly, the application is properly held abandoned, and the petition to withdraw the holding of abandonment is **dismissed**.

As the application was abandoned as matter of law, the corrected Notice mailed on 13 July, 2006, was of no force and effect.

Under the circumstances of this case, however, the petition under 37 CFR 1.137(a) is **granted**, and the application is returned to pending status.

As the petition under 37 CFR 1.137(a) is granted, the petition under 37 CFR 1.137(b) is unnecessary and will be **dismissed as moot**. Petitioner will be charged the fee for a petition under 37 CFR 1.137(a) and the balance due towards the petition under 37 CFR 1.137(b) will be credited to counsel's deposit account.

The application is being referred to the Office of Patent Publications for processing into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions